

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zev Carter	Team: APU	CCRB Case #: 201805409	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/19/2018 1:41 PM	Location of Incident: Broadway and Steinway Street	Precinct: 114	18 Mo. SOL 10/19/2019	EO SOL 10/19/2019	
Date/Time CV Reported Thu, 07/05/2018 10:56 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/05/2018 10:56 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Rendon	02545	947942	114 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Benjamin Elangovan	07479	947909	114 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jose Rendon	Abuse: Police Officer Jose Rendon stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Jose Rendon	Abuse: Police Officer Jose Rendon issued a summons to § 87(2)(b)	
C.POM Jose Rendon	Abuse: Police Officer Jose Rendon threatened to arrest § 87(2)(b)	
D.POM Jose Rendon	Discourtesy: Police Officer Jose Rendon acted discourteously toward § 87(2)(b)	

Case Summary

On July 5, 2018, § 87(2)(b) filed this complaint with the CCRB online. **(01 Board Review)**

On April 19, 2018 at approximately 1:41 p.m., § 87(2)(b) was driving in his car on Steinway Street in Queens when, at the intersection with Broadway, he was stopped by PO Jose Rendon of the 114th Precinct. **(Allegation A – Abuse of Authority, § 87(2)(g))** PO Rendon returned § 87(2)(b)'s information to him after bringing it to his patrol vehicle, but did not return PBA cards that § 87(2)(b) had provided. § 87(2)(b) got out of his car to take a picture of PO Rendon's information. PO Rendon returned to § 87(2)(b)'s car and asked for his information a second time, but § 87(2)(b) did not want to provide it. PO Rendon threatened to arrest § 87(2)(b) if he did not provide his information. **(Allegation B – Abuse of Authority, § 87(2)(g))** PO Rendon told § 87(2)(b) to lower all of his windows in the rain. **(Allegation C – Discourtesy, § 87(2)(g))** PO Rendon went to his vehicle, and returned to § 87(2)(b) to issue him two summonses. **(Allegation D – Abuse of Authority, § 87(2)(g))**

This case contains footage from § 87(2)(b)'s dashboard-mounted camera (dash cam), which was taken immediately before he was stopped.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Jose Rendon stopped a vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Jose Rendon threatened to arrest § 87(2)(b)

Allegation (C) Discourtesy: Police Officer Jose Rendon acted discourteously towards § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Jose Rendon issued a summons to § 87(2)(b)

§ 87(2)(b) stated **(04 Board Review)** that on April 19, 2018 at approximately 1:41 p.m., § 87(2)(b) was driving his car, a stock 2010 Mercedes-Benz C63 AMG sedan, when he came to a red light at the intersection of Steinway Street in Queens. § 87(2)(b)'s car has no modifications or window tints. § 87(2)(b)'s dash cam, which only records when his car's ignition is on, was turned on. To his left, separated by one car, § 87(2)(b) saw a police SUV. When the light turned green, § 87(2)(b) drove on without committing any traffic infractions. Traffic was congested, and § 87(2)(b) could only drive as quickly as the traffic conditions would allow. § 87(2)(b) could also see a police officer riding a horse around five car lengths away. The police vehicle that § 87(2)(b) previously saw turned its lights on and pulled § 87(2)(b) over.

PO Rendon exited his vehicle, walked to § 87(2)(b)'s window, and informed him that he was being pulled over for having a loud exhaust and for driving recklessly. PO Rendon asked for § 87(2)(b)'s license and registration, which § 87(2)(b) provided along with two or three PBA cards. PO Rendon returned to his car with the PBA cards, along with § 87(2)(b)'s license and

registration. PO Elangovan was standing between § 87(2)(b)'s car and the police vehicle. PO Rendon returned to § 87(2)(b)'s window a short time later. PO Rendon returned § 87(2)(b)'s license and registration, and, while he was walking back to his vehicle, told § 87(2)(b) that he had taken the PBA cards, and would be returning them to their respective officers in the mail. § 87(2)(b) had never been told by any of the officers who gave him the cards that they could be mailed back, or that they even had any information on them that could allow somebody to do that with them. § 87(2)(b) was also on the phone with an officer who had given him one of the cards. He said that there was no way that PO Rendon could mail these PBA cards back.

Upon hearing this, § 87(2)(b) exited his car to ask for PO Rendon's information and record the incident with his phone. PO Rendon "got aggressive" towards § 87(2)(b) and told him to get back into his car and remove the key from the ignition. PO Rendon was standing with his hand on his gun, and had disengaged the clip on his holster. § 87(2)(b) was outside of his car for five seconds before he got back inside and took the key out of the ignition.

PO Rendon returned to § 87(2)(b)'s window and requested his license and information again. § 87(2)(b) asked PO Rendon why he was requesting this information again if he had not issued a summons to him the first time. § 87(2)(b) was not being loud or aggressive, and did not make any threatening statements to the officers. PO Rendon said, "I don't care, just give me your license and registration. If you don't give it to me, I'm going to have to arrest you." § 87(2)(b) provided his license and registration. PO Rendon asked for § 87(2)(b)'s car key. At this point, it started to rain. PO Rendon asked § 87(2)(b) to lower all four of his car's windows. § 87(2)(b) protested that it was raining, and PO Rendon said, "I don't care. Give me your key and lower your windows." § 87(2)(b) gave the key to PO Rendon, who put it on the roof of § 87(2)(b)'s car and returned to his vehicle.

§ 87(2)(b) waited for 20 minutes with his car windows down while PO Rendon wrote summonses in the police vehicle. When it stopped raining, PO Rendon returned to § 87(2)(b)'s car and issued him two summonses — § 87(2)(a) 160.50 and § 87(2)(a) 160.50. § 87(2)(b) took his summonses and left. Later, § 87(2)(b)'s driver-side window switches stopped working due to the rain.

The day after the incident, § 87(2)(b) brought his car to a testing facility, where the volume of its exhaust was measured and found to be within legal limits. § 87(2)(b) brought these test results and his dash cam footage to court, where both summonses were dismissed.

§ 87(2)(a) 160.50

PO Rendon stated (**07 Board Review**) that his own recollection of the car stop was poor because it did not stand out to him. The only reason that PO Rendon remembered the stop was because he does not issue many summonses for reckless driving or for loud mufflers. PO Rendon also recalls

the stop because § 87(2)(b)'s license plate, § 87(2)(b) essentially spelled "§ 87(2)(b) the Spanish word for "§ 87(2)(b). It was raining on the day of the incident, and PO Rendon could hear § 87(2)(b)'s car coming from a distance due to its loud muffler. PO Rendon and his partner, PO Benjamin Elangovan, were facing east on Broadway when § 87(2)(b)'s car went "flying" across the intersection on Steinway Street, heading north. § 87(2)(b) was driving quickly, considering the rain and traffic in the area. PO Rendon could not recall the speed at which § 87(2)(b) was driving. § 87(2)(b) was approximately two or three car lengths away from the officers. PO Rendon stopped § 87(2)(b) shortly after seeing him for the first time.

PO Rendon stated that usually, a reckless driving summons is issued when more than two or three violations have been witnessed. Instead of writing summonses for multiple violations, an officer can simply write a single summons. When asked what violations he witnessed § 87(2)(b) commit, PO Rendon reiterated that he saw § 87(2)(b) driving quickly in the rain and traffic, and that he heard § 87(2)(b)'s car's exhaust, which was too loud.

PO Rendon pulled § 87(2)(b) over on Steinway Street. PO Rendon asked for § 87(2)(b)'s driver's license, registration, and insurance. PO Rendon did not remember if § 87(2)(b) was compliant or not. PO Rendon did not recall where PO Elangovan was at the time. PO Rendon could not recall any conversation between himself and § 87(2)(b) or any details about § 87(2)(b)'s demeanor. PO Rendon did not remember if § 87(2)(b) ever exited his car or asked for PO Rendon's information. PO Rendon did not know if § 87(2)(b) was ever on his cell phone during the stop. A photograph of § 87(2)(b) did not aid PO Rendon's memory.

PO Rendon stated that § 87(2)(b) did not provide PBA cards along with his information. Officers do not mail PBA cards back to anybody. The bottom of a PBA card reads that it can be revoked or returned to any law enforcement agency. PO Rendon did not recall exactly how, but § 87(2)(b) must have been cooperative in providing his information, because if he was not, it would have stuck out in his memory.

PO Rendon assumed that he approached § 87(2)(b) at least twice, once to take information, and another to return the information and a summons. PO Rendon did not remember if § 87(2)(b)'s windows were tinted. PO Rendon did not know if he ever asked § 87(2)(b) to lower his car windows, but an officer might order a civilian to lower all of his windows when the windows are tinted, so that the officers can see inside.

PO Rendon did not recall asking for § 87(2)(b)'s keys, or putting the keys on the roof of his car. It is protocol to have a civilian remove their keys from a car when officers deem that the civilian is a danger to them, if they suspect a civilian may drive away, or if the civilian may be driving a stolen vehicle.

PO Rendon never threatened to arrest § 87(2)(b). He did not write his summons in a retaliatory fashion. PO Rendon did not consider using discretion to allow § 87(2)(b) to leave without a summons during the incident. PO Rendon did not order § 87(2)(b) to lower his windows, allowing the rain to damage the vehicle.

PO Elangovan stated (**08 Board Review**) that he had no recollection of the car stop apart from his

memo book. He had no memory of a contentious interaction or arguments over PBA cards between PO Rendon and § 87(2)(b). PO Elangovan did not recall § 87(2)(b) exiting his vehicle. He did not recall PO Rendon ordering § 87(2)(b) to roll all of his windows down, but doing so would have been routine. PO Elangovan did not remember PO Rendon requesting § 87(2)(b)'s key and putting it on top of his car, or ordering § 87(2)(b) to lower his windows while it rained. He did not recall anything about § 87(2)(b)'s car's exhaust.

PO Elangovan was presented with a picture of § 87(2)(b) that was taken at the CCRB, and a copy of the summonses written during the incident. Neither document aided his recollection of the incident. PO Elangovan's recollection of the incident did not change when § 87(2)(b)'s car and license plate were described. PO Elangovan did not recall the weather, where he was when he first saw § 87(2)(b)'s car, or how § 87(2)(b) was driving.

PO Elangovan did not witness any officer threaten to arrest § 87(2)(b) or write any summons in a retaliatory manner.

PO Rendon wrote in his memo book (**06 Board Review**) that at 1:26 p.m. on April 19, 2018, he issued two summonses to § 87(2)(b) at the corner of Broadway and Steinway Street: one was issued for § 87(2)(b)'s exhaust's "unreasonable noise," and another was for a moving violation.

On § 87(2)(b)'s summons for exhaust noise (**03 Board Review**), PO Rendon wrote that he observed § 87(2)(b) driving northbound on Steinway Street with a muffler "generating unreasonable noise that was plainly audible at a distance of over 150 feet" away. On § 87(2)(b)'s summons for reckless driving (**03 Board Review**) PO Rendon wrote that he observed § 87(2)(b) operating his vehicle "in a manner that [was] unreasonably dangerous to other motorist [sic] and pedestrians" using the road.

§ 87(2)(b)'s dash cam footage (**10 Board Review**), recorded immediately before his car was pulled over, does not show any traffic violations. The video displays § 87(2)(b)'s car driving through Queens on Steinway Street at a reasonable rate of speed. As § 87(2)(b) approaches the intersection of Steinway Street and Broadway, he stops in front of a red light. When the light turns green, he accelerates from a stop, and slows to match the speed of traffic ahead of him. A police officer on a horse is visible traveling south on Steinway Street. § 87(2)(b) pulls his car over to the side of the street, and the video ends.



jimenez.mp4

§ 87(2)(b) took a picture of the inside of his car during the incident. (**05 Board Review**)

An officer must have reasonable suspicion that a violation has occurred in order to stop a motor vehicle. This suspicion must be based on specific, articulable facts about what violations had occurred. (People v. Ingle, 36 N.Y.2d 413 (1975) (**11 Board Review**)).

According to New York State Vehicle and Traffic Law §1212, “reckless driving shall mean driving or using any motor vehicle . . . in a manner which unreasonably interferes with the free and proper use of the public highway, or unreasonably endangers users of the public highway.” (12 Board Review)

According to New York City Administrative Code §24-236, “no person shall cause or permit any motor vehicle . . . to operate on a public right-of-way where the muffler or exhaust generates a sound that is plainly audible to another individual at a distance of 150 feet or more from the motor vehicle.” (13 Board Review)

PO Rendon stated that he saw § 87(2)(b) “flying” across the intersection of Broadway and Steinway Street at an unspecified rate of speed from a distance of two or three car lengths away, far less than 150 feet. This, presumably, was when he heard § 87(2)(b) s car’s exhaust as well. While PO Rendon stated that he could hear § 87(2)(b) driving towards him from a distance, § 87(2)(b) s dash cam footage shows driving which would not cause a car’s exhaust to make a noise which would be plainly audible from a distance. § 87(2)(a) 160.50, § 87(2)(g)

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NYPD Patrol Guide Procedure 203-09 states that officers are to be courteous and respectful while interacting with members of the public. (14 Board Review)

§ 87(2)(g)

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Civilian and Officer CCRB Histories

- PO Rendon has been the subject of eight other CCRB complaints since his tenure in 2009. **(15 Board Review)** In CCRB #201708260, one allegation of force and one allegation of abuse of authority for property damage were substantiated with charges.
- This is the first CCRB complaint to which § 87(2)(b) has been a party. **(16 Board Review)**

Mediation, Civil and Criminal Histories

- This case was sent to mediation on August 3, 2018, and was returned to investigations on September 5, 2018 after mediation was rejected by the NYPD Department Advocate's Office.
- § 87(2)(b), § 87(2)(c)
§ 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)
- A FOIL request for a notice of claim regarding this incident was submitted on October 29, 2018, and is pending.

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date